IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. No. 20513 OF 2005

Date: 28.09.2005

BETWEEN:

K.A. Krishnamacaryu

.... PETITIONER

Vs.

1. The Commissioner, Survey and Land Records, Gagan Vihar, A.P. Hyderabad, and others.

.... RESPONDENTS

HONOURABLE SRI JUSTICE V.V.S. RAO

WRIT PETITION NO. 20513 OF 2005

ORDER:

The petitioner allegedly belongs to a joint family owning an extent of Acs.117.45 of Mango tope in S.No.82 of Thamarapalli Village of L. Kota Mandal, Vizianagaram District. The petitioner's joint family, consisting of eight persons, approached the revenue authorities for pattadar passbooks upon which an enquiry was conducted in 1988. The rival claim of Kona Simhachalam for record of rights in respect of Acs.12.00 was negatived and pattadar passbooks were given to the petitioner's joint family. In June 2005 when the third respondent again made attempts to get a share in the petitioner's land by approaching the Assistant Director, Survey and Land Records, Vizianagaram, who sought to conduct enquiry on 10.1. 2005, the petitioner and his peers approached the first respondent. In the meanwhile when the Assistant Director of Survey and Land Records came to the lands on 25.1.2005, the petitioner and another filed W.P.No.1167 of 2005. This Court disposed of the said writ petition on 23.3.2005 directing the Mandal Revenue Officer (MRO) to consider the

matter and pass appropriate orders. The petitioner and his family thereafter came to know that on a representation made by the third respondent the Joint Collector without issuing any notice to them initiated proceedings purportedly under Section 9 of Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971 (for short 'the Act'). The petitioner herein was not issued any notice, and therefore placing reliance on Andhra Pradesh Rights in Land and Pattadar Passbooks Rules 1999, the petitioner challenged the proceedings before the Joint Collector in this writ petition.

Heard the learned counsel for the petitioner and learned Assistant Government Pleader for Revenue (General). Section 9 of the Act confers powers on the Joint Collector either suo motu or on application made to him, modify annul or reverse an order, if he satisfy that such order is irregular, illegal, improper and incorrect. Proviso to Section 9 mandates that the person, who might be adversely affected by the order of the Joint Collector, is given an opportunity of making representation. Further Rule 23 (2) of the Rules requires the Joint Collector to communicate the grounds on which a revision is entertained, in case *suo motu* exercise is taken by the Joint Collector. In this case, the Joint Collector admittedly initiated action under Section 9 of the Act on an application moved by the third respondent herein. Therefore unless and until the petitioner is given a notice, no orders adverse to him can be passed. This legal position is not denied by the learned Assistant Government Pleader.

Accordingly, the Writ Petition is disposed of directing the Joint Collector, Vizianagaram to issue notice to the petitioner in the revision petition filed by the third respondent and pass appropriate orders within a period of 8 weeks from the date of receipt of this order. Liberty is given to the petitioner to raise all objections before the Joint Collector.

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(**V.V.S. RAO, J.)**

28th September, 2005

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